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10/589,155	05/04/2007	Claus Pedersen	P3480US00	6810
11764 7590 05/03/2011 Ditthavong Mori & Steiner, P.C. 918 Prince Street Alexandria, VA 22314			EXAMINER LEE, CHUN KUAN	
			ART UNIT	PAPER NUMBER
			2181	
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			05/03/2011	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docket@dcpatent.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/589,155	<b>Applicant(s)</b> PEDERSEN ET AL.	
	<b>Examiner</b> Chun-Kuan Lee	<b>Art Unit</b> 2181	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,3-10,12-28,34-41 and 43-49 is/are pending in the application.
- 4a) Of the above claim(s) 17-28,34-40,43 and 44 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-10,12-16,41 and 45-49 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 June 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>03/22/2011</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### **RESPONSE TO ARGUMENTS**

1. Applicant's arguments filed 03/30/2011 have been fully considered but they are not persuasive. Currently, claims 2, 11, 29-33 and 42 are canceled, claims 17-28, 34-40 and 43-44 are withdrawn, and claims 1, 3-10, 12-16, 41 and 45-49 are pending for examination.

2. In response to applicant's arguments with regard to the Interview Summary that:

“... The Applicants respectfully object to the Examiner-Initiated Interview Summary dated October 5, 2010 as not being reflective of the general nature of what was discussed during the telephonic interview between the Examiner and listed participant representing the Applicants. Particularly, the Examiner's specific interpretation or understanding of the claimed invention is not shared by the listed participant representing the Applicants ...”; and

the Examiner's reliance on functional equivalency is unwarranted because the BPAI in, e.g., *Ex parte Kershaw* (citation omitted), has recently ruled against using 'functional equivalents' doctrine. Moreover, according to MPEP 2144.06, it is stated that in order to rely on equivalence as a rationale supporting an obviousness rejection, the equivalency must be recognized in the prior art, and cannot be based on applicant's disclosure or the mere fact that the components at issue are functional or mechanical equivalents. In *re Ruff*, 256 F.2d 590, 118 USPQ 340 (CCPA 1958) (The mere fact that components are claimed as members of a Markush group cannot be relied upon to establish the equivalency of these components.); *Smith v. Hayashi*, 209 USPQ 754 (Bd. of Pat. Inter. 1980) (The mere fact that phthalocyanine and selenium function as

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equivalent photoconductors in the claimed environment was not sufficient to establish that one would have been obvious over the other); applicant's arguments have fully been considered, but are not found to be persuasive.

The examiner respectfully disagrees applicant's above arguments; even though applicants do not share the examiner's specific interpretation or understanding of the claimed invention, applicant did not provide further clarification or explanation for interpretation or understanding applicant's claimed invention; therefore, base on the applicant's clarification during the preceding interviews dated 10/5/2010 and 06/19/2010:

"... The interview mainly focused on getting a clear understand of applicant's claimed invention, wherein the examiner requested the applicant to provide a real world example reflecting the heart/core of applicant's invention, and applicant in response, provided the following explanation:

A real world example would be a device receiving a data and a metadata for the data, utilized the received metadata in combination with a tree architecture to acquire a content type, and utilizing the content type to determine a corresponding executable for the data.

In response, the examiner inquired how is the utilization of the tree architecture to accomplish the functionality of identifying the executable germane to applicant's invention, and applicant responded that the utilization of the tree architecture for identifying the executable is not special, it is another/different way/option/method for identifying the executable and that no one ever thought of identifying the executable in this manner; and the examiner further inquired if the use of the tree architecture for identifying the executable is better or more efficient then how it is accomplished conventionally via metadata, and applicant responded that applicant's invention is not necessary better or more efficient, but applicant's invention is different from convention methodology.

The examiner then requested for further clarification as to what is applicant's invention, and in response, applicant stated that the invention is in the claimed language which corresponds to a different way/option/method for identifying the executable.

In summary, based on applicant's explanation above and the interview dated 06/19/2010:

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“... The interview focused on getting a better understanding of the instant invention, wherein the examiner provided the following real world example for the instant invention:

Having a mobile device receiving data such as a word document, wherein the received data include metadata, and the mobile device determines to initiate the word program to read the received word document based on examining the received metadata. That is the invention is associated with utilizing the received data's metadata to determine what program/executable is call upon to render the received data ...,”

it is the examiner's best understanding that the core/heart of applicant's invention for utilizing the tree architecture to accomplish the functionality of identifying the executable is functionally equivalent to the utilization of the metadata for identifying the executable, because applicant explained that it is not special to use the tree architecture for identifying the executable as applicant's invention is providing another/different way/option/method for accomplishing the same functionality as the methodology associated with the conventional metadata ...,”

the examiner will continue to maintain how the examiner is interpreting applicant's claimed invention as previously indicated.

Furthermore, the examiner is not indicating that the prior art is functionally equivalent to applicant's claimed invention base on applicant's disclosure or the mere fact that the components at issue are functional or mechanical equivalents; instead, the examiner is indicating at the prior art is functionally equivalent to applicant's claimed invention base on the examiner's understanding of applicant's claimed invention as clarified by the applicant during the interviews and the examiner's understanding of the currently cited prior arts.

3. In response to applicant's arguments with regard to the independent claims 1, 41 and 49 rejected under 35 U.S.C. 103(a) that the combination of the references does not teach/suggest the newly amended claimed feature of “... receiving at an electronic device an executable command to execute on first data without specifying execution of

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an unidentified executable for the first data ...”; applicant's arguments have fully been considered, but are not found to be persuasive.

The examiner respectfully disagrees, because the combination of the references teach/suggest the above claimed features as following: Rao teaches receiving at an electronic device an executable command to execute on first data (Fig. 1; col. 1, l. 46 to col. 2, l. 20; col. 3, l. 21 to col. 4, l. 26; col. 5, l. 23 to col. 7, l. 19 and col. 8, l. 25 to col. 12, l. 19) and Szeto teaches without specifying execution of an unidentified executable for the first data (Fig. 12A; col. 1, ll. 55-58; col. 7, ll.48-53; and col. 12, l. 66 to col. 13, l. 16); therefore, the resulting combination of the references does teach/suggest the above claimed features.

## **I. REJECTIONS BASED ON PRIOR ART**

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 3-10, 12-16, 41 and 45-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rao et al. (US Patent 6,978,453) in view of “SyncML Meta-Information DTD” and Szeto (US Patent 7,188,143).

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5. As per claim 1, Rao teaches a method comprising: receiving at an electronic device (Fig. 1, ref. 107) an executable command (e.g. update command) to execute on first data(e.g. as execution of the first data is associated with firmware update data); utilizing, at the electronic device, metadata protocol associated with the first data; determining to identify at the electronic device a property of the first data (e.g. as the received command is determined to identify by the electronic device to have the property associated with firmware updating); and determining to operate on the first data using an executable (e.g. module) (e.g. as the module would operate on the firmware update data via downloading and updating processes) (Fig. 1; col. 1, l. 46 to col. 2, l. 20; col. 3, l. 21 to col. 4, l. 26; col. 5, l. 23 to col. 7, l. 19 and col. 8, l. 25 to col. 12, l. 19).

Rao does not teach the method comprising: without specifying execution of an unidentified executable for the first data; determine content type from the metadata for the first data; identifying an executable using the content type; and operating via the identified executable.

SyncML Meta-Information DTD" teaches the metadata indicating a content type (Sec. 3-5 on pp. 5-12), as it is well known that metadata is data/information about data and SyncML have meta-information such as parameter or attributes that are about type or content of data; therefore, metadata may be utilized in association for determining the content type of data.

Szeto teaches a system and method comprising:

without specifying execution of an unidentified executable for the first data (Fig. 12A; col. 1, ll. 55-58; col. 7, ll.48-53; and col. 12, l. 66 to col. 13, l. 16), as the supporting application is not identified by an initial command for IM message, wherein the initial command would only identify an application for rendering the IM message, and only upon further examination is the need for the supporting application determined/identified via application type identifier; therefore, by combining the determination/identifying the need of the supporting application with Rao's mobile phone/PDA/electronic device communicating over network via XML protocol including the first data, the resulting combination of the references further teaches the above claimed feature;

determine content type from the metadata for the first data; identifying an executable using the content type; and operating via the identified executable (Fig. 12A; col. 1, ll. 55-58; col. 7, ll. 48-53; and col. 12, l. 66 to col. 13, l. 16), by combining the determination/identifying the need of supporting application with Rao's mobile phone/PDA/electronic device communicating over network via XML protocol including the first data and SyncML Meta-Information DTD's metadata and content type, the resulting combination of the references is functionally equivalent to the above claimed feature in association with determining/identifying the executable to operate on the first data utilizing the application type identifier/metadata indicating content type (e.g. both the application type identifier and the metadata indicating content type are data/information about data, wherein the application type identifier is data/information about data for determining/identifying the corresponding executable); wherein the above functional equivalency to determining the executable is based on the examiner's best



understanding of the instant invention as explained by the applicant during the interviews dated 06/19/2010 and 10/05/2010.

It would have been obvious for one of ordinary skill in this art, at the time of invention was made to include SyncML Meta-Information DTD's content type and metadata and Szeto's identification of the executable into Rao's operation on the first identified data for the benefit of properly operating in accordance SyncML standard as in Rao's system and also for the benefit to the having a reliable system and method for a user to execute and control application (Szeto, col. 2, ll. 30-33) to obtain the invention as specified in claim 1.

6. As per claim 3, Rao, SyncML Meta-Information DTD and Szeto teach all the limitations of claim 1 as discussed above, where Rao, SyncML Meta-Information DTD and Szeto further teaches the method comprising wherein the command contains the metadata of the first data, and the metadata includes an identifier of the first data (Rao, Fig. 1; col. 1, l. 46 to col. 2, l. 20; col. 3, l. 21 to col. 4, l. 26; col. 5, l. 23 to col. 7, l. 19; col. 8, l. 25 to col. 12, l. 19; SyncML Meta-Information DTD, Sec. 3-5 on pp. 5-12; and Szeto, Fig. 12A; col. 1, ll. 55-58; col. 7, ll. 48-53; col. 12, l. 66 to col. 13, l. 16), wherein, based on the examiner's best understanding of the instant invention as explained by the applicant during the interviews dated 06/19/2010 and 10/05/2010, the resulting combination of the references is functionally equivalent to the above claimed features.

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7. As per claim 4, Rao, SyncML Meta-Information DTD and Szeto teach all the limitations of claim 3 as discussed above, where Rao further teaches the method comprising wherein the identifier identifies a node of a hierarchical nodular data structure (e.g. tree data structure) stored at the electronic device (Rao, Fig. 1; col. 1, l. 46 to col. 2, l. 20; col. 3, l. 21 to col. 4, l. 26; col. 5, l. 23 to col. 7, l. 19; col. 8, l. 25 to col. 12, l. 19).

8. As per claim 5, Rao, SyncML Meta-Information DTD and Szeto teach all the limitations of claim 4 as discussed above, where Rao, SyncML Meta-Information DTD and Szeto further teaches the method comprising wherein the command is an exec command and the identifier is a uniform resource identifier contained within a source element corresponding to the node in the hierarchical nodular data structure (Rao, Fig. 1; col. 1, l. 46 to col. 2, l. 20; col. 3, l. 21 to col. 4, l. 26; col. 5, l. 23 to col. 7, l. 19; col. 8, l. 25 to col. 12, l. 19; SyncML Meta-Information DTD, Sec. 3-5 on pp. 5-12; and Szeto, Fig. 12A; col. 1, ll. 55-58; col. 7, ll. 48-53; col. 12, l. 66 to col. 13, l. 16), wherein, based on the examiner's best understanding of the instant invention as explained by the applicant during the interviews dated 06/19/2010 and 10/05/2010, the resulting combination of the references is functionally equivalent to the above claimed features.

9. As per claim 6, Rao, SyncML Meta-Information DTD and Szeto teach all the limitations of claim 1 as discussed above, where Rao and Szeto further teach the method comprising wherein the command is received as extensible markup language

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code (Rao, Fig. 1; col. 1, l. 46 to col. 2, l. 20; col. 3, l. 21 to col. 4, l. 26; col. 5, l. 23 to col. 7, l. 19; col. 8, l. 25 to col. 12, l. 19; and Szeto, Fig. 12A; col. 1, ll. 55-58; col. 7, ll. 48-53; col. 12, l. 66 to col. 13, l. 16).

10. As per claim 7, Rao, SyncML Meta-Information DTD and Szeto teach all the limitations of claim 6 as discussed above, where Rao further teaches the method comprising wherein the command is a SyncML command (Rao, Fig. 1; col. 1, l. 46 to col. 2, l. 20; col. 3, l. 21 to col. 4, l. 26; col. 5, l. 23 to col. 7, l. 19; and col. 8, l. 25 to col. 12, l. 19).

11. As per claim 8, Rao, SyncML Meta-Information DTD and Szeto teach all the limitations of claim 1 as discussed above, where Rao, SyncML Meta-Information DTD and Szeto further teach the method further comprising determining to parse a content type of the first data based upon a node, wherein the content type of the first data is stored at the electronic device according to the node (Rao, Fig. 1; col. 1, l. 46 to col. 2, l. 20; col. 3, l. 21 to col. 4, l. 26; col. 5, l. 23 to col. 7, l. 19; col. 8, l. 25 to col. 12, l. 19; SyncML Meta-Information DTD, Sec. 3-5 on pp. 5-12; and Szeto, Fig. 12A; col. 1, ll. 55-58; col. 7, ll. 48-53; col. 12, l. 66 to col. 13, l. 16), wherein, based on the examiner's best understanding of the instant invention as explained by the applicant during the interviews dated 06/19/2010 and 10/05/2010, the resulting combination of the references is functionally equivalent to the above claimed features.

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12. As per claim 9, Rao, SyncML Meta-Information DTD and Szeto teach all the limitations of claim 6 as discussed above, where Rao further teaches the method comprising wherein the content type of the first data is stored at a node of a hierarchical nodular data structure (e.g. tree data structure) (Rao, col. 3, ll. 52-63; col. 6, l. 49 to col. 7, l. 19; col. 8, ll. 25-34 and col. 11, l. 48 to col. 12, l. 19), as the data would be store in the node of the tree data structure.

13. As per claim 10, Rao, SyncML Meta-Information DTD and Szeto teach all the limitations of claim 9 as discussed above, where Rao, SyncML Meta-Information DTD and Szeto further teach the method comprising wherein the node is a leaf node that identifies the content type of the first data (Rao, Fig. 1; col. 1, l. 46 to col. 2, l. 20; col. 3, l. 21 to col. 4, l. 26; col. 5, l. 23 to col. 7, l. 19; col. 8, l. 25 to col. 12, l. 19; SyncML Meta-Information DTD, Sec. 3-5 on pp. 5-12; and Szeto, Fig. 12A; col. 1, ll. 55-58; col. 7, ll. 48-53; col. 12, l. 66 to col. 13, l. 16), wherein, based on the examiner's best understanding of the instant invention as explained by the applicant during the interviews dated 06/19/2010 and 10/05/2010, the resulting combination of the references is functionally equivalent to the above claimed features.

14. As per claim 12, Rao, SyncML Meta-Information DTD and Szeto teach all the limitations of claim 1 as discussed above, where SyncML Meta-Information DTD and Szeto further teach the method comprising wherein the content type is determined by at least one of the value of a format element and the value of a type element associated

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with the first data (SyncML Meta-Information DTD, Sec. 3-5 on pp. 5-12; and Szeto, Fig. 12A; col. 1, ll. 55-58; col. 7, ll. 48-53; col. 12, l. 66 to col. 13, l. 16).

15. As per claim 13, Rao, SyncML Meta-Information DTD and Szeto teach all the limitations of claim 1 as discussed above, where Rao, SyncML Meta-Information DTD and Szeto further teaches the method comprising determining to associate a plurality of different executables (e.g. different supporting applications for movie trailer, game, animation cartoon, advertisement, flash presentation) with each of a plurality of different content types (Rao, Fig. 1; col. 1, l. 46 to col. 2, l. 20; col. 3, l. 21 to col. 4, l. 26; col. 5, l. 23 to col. 7, l. 19; col. 8, l. 25 to col. 12, l. 19; SyncML Meta-Information DTD, Sec. 3-5 on pp. 5-12; and Szeto, Fig. 12A; col. 1, ll. 55-58; col. 7, ll. 48-53; col. 12, l. 66 to col. 13, l. 16), wherein, based on the examiner's best understanding of the instant invention as explained by the applicant during the interviews dated 06/19/2010 and 10/05/2010, the resulting combination of the references is functionally equivalent to the above claimed features, as each different content types have the corresponding supporting application.

16. As per claim 14, Rao, SyncML Meta-Information DTD and Szeto teach all the limitations of claim 1 as discussed above, where Rao, SyncML Meta-Information DTD and Szeto further teach the method comprising wherein the executable is identified using the content type and a look-up table (Rao, Fig. 1; col. 1, l. 46 to col. 2, l. 20; col. 3, l. 21 to col. 4, l. 26; col. 5, l. 23 to col. 7, l. 19; col. 8, l. 25 to col. 12, l. 19; SyncML Meta-

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Information DTD, Sec. 3-5 on pp. 5-12; and Szeto, Fig. 12A; col. 1, ll. 55-58; col. 7, ll. 48-53; col. 12, l. 66 to col. 13, l. 16), wherein, based on the examiner's best understanding of the instant invention as explained by the applicant during the interviews dated 06/19/2010 and 10/05/2010, the resulting combination of the references is functionally equivalent to the above claimed features as the executable is identified.

17. As per claim 15, Rao, SyncML Meta-Information DTD and Szeto teach all the limitations of claim 13 as discussed above, where Rao and Szeto further teach the method comprising wherein the plurality of different executables are stored in the electronic device (Rao, Fig. 1; col. 1, l. 46 to col. 2, l. 20; col. 3, l. 21 to col. 4, l. 26; col. 5, l. 23 to col. 7, l. 19; col. 8, l. 25 to col. 12, l. 19; and Szeto, Fig. 12A; col. 1, ll. 55-58; col. 7, ll. 48-53; col. 12, l. 66 to col. 13, l. 16), as the electronic device would have the corresponding supporting application for operating the first data.

18. As per claim 16, Rao, SyncML Meta-Information DTD and Szeto teach all the limitations of claim 1 as discussed above, where Rao, SyncML Meta-Information DTD and Szeto further teach the method comprising before receiving the command specifying execution of the first data, determining to create or update a hierarchical nodular data structure (e.g. tree data structure) at the electronic device (Rao, Fig. 1; col. 1, l. 46 to col. 2, l. 20; col. 3, l. 21 to col. 4, l. 26; col. 5, l. 23 to col. 7, l. 41; col. 8, l. 25 to col. 12, l. 19; SyncML Meta-Information DTD, Sec. 3-5 on pp. 5-12; and Szeto, Fig. 12A;

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col. 1, ll. 55-58; col. 7, ll. 48-53; col. 12, l. 66 to col. 13, l. 16), wherein, based on the examiner's best understanding of the instant invention as explained by the applicant during the interviews dated 06/19/2010 and 10/05/2010, the resulting combination of the references is functionally equivalent to the above claimed features, as the executable is determined and as the tree data structure is created prior to the execution of the command.

19. As per claims 41 and 49, independent claims 41 and 49 are rejected base on the same rational as the rejection for independent claim 1, as claim 41 is a computer readable storage medium and claim 49 is an apparatus implementing the method of claim 1.

20. As per claim 45, Rao, SyncML Meta-Information DTD and Szeto teach all the limitations of claim 1 as discussed above, where Rao, SyncML Meta-Information DTD and Szeto further teach the method comprising wherein the command excludes information of the content type of the first data (Rao, Fig. 1; col. 1, l. 46 to col. 2, l. 20; col. 3, l. 21 to col. 4, l. 26; col. 5, l. 23 to col. 7, l. 41; col. 8, l. 25 to col. 12, l. 19; SyncML Meta-Information DTD, Sec. 3-5 on pp. 5-12; and Szeto, Fig. 12A; col. 1, ll. 55-58; col. 7, ll. 48-53; col. 12, l. 66 to col. 13, l. 16), wherein, based on the examiner's best understanding of the instant invention as explained by the applicant during the interviews dated 06/19/2010 and 10/05/2010, the resulting combination of the

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references is functionally equivalent to the above claimed features as the executable is determined.

21. As per claim 46, Rao, SyncML Meta-Information DTD and Szeto teach all the limitations of claim 16 as discussed above, where Rao, SyncML Meta-Information DTD and Szeto further teach the method comprising before receiving the command specifying execution of the first data, determining to create the node or a sub-tree including the node in the hierarchical nodular data structure at the electronic device (Rao, Fig. 1; col. 1, l. 46 to col. 2, l. 20; col. 3, l. 21 to col. 4, l. 26; col. 5, l. 23 to col. 7, l. 41; col. 8, l. 25 to col. 12, l. 19; SyncML Meta-Information DTD, Sec. 3-5 on pp. 5-12; and Szeto, Fig. 12A; col. 1, ll. 55-58; col. 7, ll. 48-53; col. 12, l. 66 to col. 13, l. 16), wherein, based on the examiner's best understanding of the instant invention as explained by the applicant during the interviews dated 06/19/2010 and 10/05/2010, the resulting combination of the references is functionally equivalent to the above claimed features as the executable is determined and as the tree data structure is created prior to the execution of the command.

22. As per claim 47, Rao, SyncML Meta-Information DTD and Szeto teach all the limitations of claim 12 as discussed above, where Rao, SyncML Meta-Information DTD and Szeto further teach the method comprising wherein the executable is identified using a look-up table and the at least one of the value of the format element and the value of the type element (Rao, Fig. 1; col. 1, l. 46 to col. 2, l. 20; col. 3, l. 21 to col. 4, l.



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26; col. 5, l. 23 to col. 7, l. 41; col. 8, l. 25 to col. 12, l. 19; SyncML Meta-Information DTD, Sec. 3-5 on pp. 5-12; and Szeto, Fig. 12A; col. 1, ll. 55-58; col. 7, ll. 48-53; col. 12, l. 66 to col. 13, l. 16), wherein, based on the examiner's best understanding of the instant invention as explained by the applicant during the interviews dated 06/19/2010 and 10/05/2010, the resulting combination of the references is functionally equivalent to the above claimed features as the executable is determined.

23. As per claim 48, Rao, SyncML Meta-Information DTD and Szeto teach all the limitations of claim 1 as discussed above, where Rao, SyncML Meta-Information DTD and Szeto further teach the method comprising wherein the first data includes media content data (Rao, Fig. 1; col. 1, l. 46 to col. 2, l. 20; col. 3, l. 21 to col. 4, l. 26; col. 5, l. 23 to col. 7, l. 41; col. 8, l. 25 to col. 12, l. 19; SyncML Meta-Information DTD, Sec. 3-5 on pp. 5-12; and Szeto, Fig. 12A; col. 1, ll. 55-58; col. 7, ll. 48-53; col. 12, l. 66 to col. 13, l. 16), wherein, based on the examiner's best understanding of the instant invention as explained by the applicant during the interviews dated 06/19/2010 and 10/05/2010, the resulting combination of the references is functionally equivalent to the above claimed features as the executable is determined.

## **II. CLOSING COMMENTS**

### **Conclusion**

#### **a. STATUS OF CLAIMS IN THE APPLICATION**

The following is a summary of the treatment and status of all claims in the application as recommended by **M.P.E.P. 707.07(i)**:

##### **a(1) CLAIMS REJECTED IN THE APPLICATION**

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

#### **b. DIRECTION OF FUTURE CORRESPONDENCES**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chun-Kuan (Mike) Lee whose telephone number is (571) 272-0671. The examiner can normally be reached on 8AM to 5PM.

**IMPORTANT NOTE**

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alford Kindred can be reached on (571) 272-4037. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Chun-Kuan Lee/  
Primary Examiner  
Art Unit 2181  
April 27, 2011